SCA/14729/2003 1/3 JUDGMENT

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14729 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJABHAI JETHABHAI KARAMTA - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MS SEJAL K MANDAVIA for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1, 3,
NOTICE SERVED for Respondent(s) : 1,
MR MURALI N DEVNANI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 17/11/2005

ORAL JUDGMENT

1.The present petition is preferred for giving direction to the respondent No,2 to give appointment on compassionate ground as per the order dated 2.6.03.

2.Upon hearing the Ms.Mandavia for the petitioner,

Mr.Devnani for the corporation and Mr.Desai, Ld.AGP for the State and Director of Municipalities, it appears that it is admitted position that the order dated 2.6.03 is issued by the Director of Municipalities to the respondent corporation for giving appointment on compassionate ground to the petitioner. However, it is the case of the respondent municipality that thereafter as the circular was received by the Director of Municipalities dated 30.6.03 the clarification was sought as per the letter dated 11/7/03 of the Director of Municipalities because the implementation of the order for compassionate appointment was to result into financial burden to the Municipality and may also be in breach of circular dated 30.6.03.

3. Mr.Desai, Ld.AGP during the course of hearing submitted written instructions from the Regional Director of Municipalities admitting the position that after 30.6.03 ban is imposed by the State Govt for giving compassionate appointment. However, in the present case as the order was already passed on 2.6.03 prior to imposition of ban, the said ban will not be applicable. The said written instructions received by Mr.Desai, Ld.AGP is placed on record.

4. In view of the above, since even as per the Director of Municipalities, order dated 2.6.03 for giving compassionate appointment to the petitioner was already issued prior to imposition of ban and as the ban is not to be made applicable qua the appointment given to the petitioner vide order dated 2.6.03, it would be required for the Municipality to comply with the order dated 2.6.03 passed by the Director of Municipalities for giving compassionate appointment to the petitioner. Hence, the respondent Municipality shall comply with the order dated 2.6.03 passed by the Director of Municipalities at annexure “A” within a period of four weeks from the date of receipt of writ of this court.

   It is made clear that the terms and conditions of order shall operate for appointment and no benefit shall be conferred to the petitioner until the appointment is actually made.

5. Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

17.11.05/murty (JAYANT PATEL,J)